IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

Crl.MC.No. 823 of 2007()

CC.261/2003 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER:

SREEDEVI AMMA,
W/O. CHANDRAN, ATED 37 YEARS,
SAI SREE, PRASANTH NAGAR,
VATTAPPARA,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAJAGOPALAN NAIR
SRI.G.BIJU

RESPONDENTS:

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1. STATE OF KERALA, REP. BY
THE SUB INSPECTOR OF POLICE,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. RAJAN POTTAYIL,
SITA VIHAR,
THOPPIL LANE,
MALLOOR ROAD,
VANCHIYOOR,
THIRUVANANTHAPURAM.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 823 of 2007

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Dated this the 21st day of March, 2007

O R D E R

The petitioner is the second accused in a prosecution, inter alia, under Sections 427, 294(b) and 420 I.P.C. Cognizance has been taken by the learned Magistrate in 2003 on the basis of a final report submitted by the police. The final report was filed in a crime registered on the basis of a private complaint referred by the learned Magistrate to the police. The petitioner, now in 2007, has come before this Court with a prayer that the proceedings against him may be quashed invoking the powers under Section 482 Cr.P.C.

2. The specific allegations raised against the petitioner is that she had used abusive and obscene words against CW1. This allegation is false. The petitioner, a woman, is unlikely to have indulged in such conduct. In these circumstances powers under Section 482 Cr.P.C. may be invoked, it is prayed.

3. I am unable to find any particular circumstance which can persuade this court to invoke the powers under Section 482 Cr.P.C. At the stage of Section 482 Cr.P.C. the acceptability of the

allegations against an indictee or the acceptability of the probable evidence that may be tendered cannot obviously be gone into. The allegations, if accepted, according to me, would undoubtedly reveal the offence alleged. I am, in these circumstances, not at all persuaded to invoke the powers under Section 482 Cr.P.C. to bring to premature termination the proceedings against the petitioner.

4. This Crl.M.C. is hence dismissed. It is submitted that the charges have not been framed. Needless to say, the petitioner shall be at liberty to seek discharge at the stage of Section 239/240 Cr.P.C. The learned counsel for the petitioner submits that unnecessary insistence on the personal presence of the petitioner, a woman, is likely to cause great hardship and prejudice to the petitioner. I find no reason why the learned Magistrate insist on personal presence of the petitioner. The petitioner is at liberty to file application for exemption from personal appearance. The learned Magistrate must pass appropriate orders on merits on such application.

(R. BASANT)
Judge

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